

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA**

PABLO RAMON GUERRERO,
Petitioner,

vs.

BRIAN E. WILLIAMS, *et al.*,
Respondents.

2:13-CV-00328-JCM-CWH

ORDER

This is a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2254 in which petitioner, a state prisoner, is represented by CJA counsel. Before the court is petitioner's second motion for extension of time to file a second amended petition (ECF #22). Petitioner indicates that he has not been advised by respondents as to what portion of the state court records they may have received. He requests an enlargement of time to include 90-days after he is advised that the record is available.

The court is inclined to allow for additional time to file the Second Amended Petition. However, petitioner will first be required to attempt to contact counsel for respondents to ascertain whether or not the record is available. Merely assuming the record is not available, without taking steps to inquire, is inadequate to justify the requested extension requested.

Therefore, in order to obtain the requested extension of time, petitioner shall include with the renewed motion such facts as he may have demonstrating the true status of the record, i.e., that he spoke with counsel for respondents about the record and it is or is not available. If petitioner can demonstrate

1 that efforts are being made to obtain the record, either from respondents or from the state court directly,
2 and if petitioner can estimate when such records will be available, he may renew his motion to file his
3 second amended petition within **ninety (90) days** of the date of entry of this order.

4 **IT IS THEREFORE ORDERED** that petitioner's second motion for leave and extension of
5 time to file second amended petition (ECF #22) is **DENIED without prejudice**.

6 **IT IS FURTHER ORDERED** that the motion may be renewed subject to the conditions
7 outlined above.

8 Dated September 5, 2013.

9
10 
11 UNITED STATES DISTRICT JUDGE
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26